IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

APPEAL FROM ORDER NO.832 OF 2004

Shri Shirish Gulabchand Shah ... Appellant

V/s.

Shri Ashok Sahebrao Patil & Ors. ... Respondents

Mr.V.B. Naik with I.M. Khairdi for Appellant
Mr.G.S. Godbole for Respondent No.1

a/w
APPEAL FROM ORDER NO.1012 OF 2004
IN
SPECIAL CIVIL SUIT NO.158 OF 2004

Shri Ashok Sahebrao Patil & Ors. ... Appellants

V/s.

Shirish Gulabchand Shah & Ors. ... Respondents

Mr.G.S. Godbole for Appellants
Mr.V.B. Naik with I.M. Khairdi for Respondents

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **DECEMBER 15, 2004**

P.C.:

. Both these appeals challenge the order of the trial Court dated 9.8.2004 wherein the defendants have been directed to furnish a security of Rs.3 lacs on or before 30.8.2004. The property of Defendant Nos.1 to 3 in City Survey No.8391/16 situate at the Railway Station, Solapur is also attached. The appellant in

Appeal from Order No.832 of 2004, who is the plaintiff, submits that the property bearing C.T.S. No.8391/16, Railway Lines, Solapur could not have been attached since this property is already under attachment in various litigations. According to him, the property which ought to have been attached was City Survey No.8285/2A admeasuring 2540.91 sq.mtrs. According to the defendants, who filed Appeal from Order No.1012 of 2004, the trial Court has erred in directing the defendants to furnish security as well as attachment of the property. A statement is also made that the defendants have already furnished security of Rs.5 lacs which has been accepted by the trial Court.

2. Obviously, the order of 9.8.2004 is incorrect, as there cannot be an order for both the security and attachment. The trial Court could have attached the property in the event the defendants were not able to furnish security. In view of the fact that the defendants have already furnished security of Rs.5 lacs, the attachment is lifted.

3. Both the appeals are disposed of accordingly.

4. In view of the Appeals being disposed of, nothing survives in Civil Application Nos.1200 of 2004 and 1487 of 2004 and the same are disposed of

accordingly.